

Incontinence pads for adults qualify for the low 1% State rate of tax. See 86 Ill. Adm. Code 130.310(c)(3). (This is a GIL.)

May 9, 2002

Dear Xxxxx:

This letter is in response to your letter dated March 29, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at www.revenue.state.il.us/Laws/regs/part1200/.

In your letter, you have stated and made inquiry as follows:

Due to health problems in my family, I find it necessary to frequently buy quantities of Depend Disposable Underwear.

Buying Depends and similar products(panty liners, etc.) at different stores, I find an unusual discrepancy in sales tax being charged.

Our local pharmacies, super markets and AAA all charge 7% tax while BBB charges only 1%.

Attached are copies of recent sales tickets from both BBB and AAA which very clearly show the difference. I cannot imagine that all stores except BBB are charging incorrectly and that BBB is remitting tax properly to the State of Illinois. If they are doing this improperly in CITY then without a doubt they are doing it throughout the State.

Since Illinois is hurting for revenue, it would seem that an audit might be called for.

At age 84 and facing some very extensive nursing home expenses in the near future, I like the idea of paying only 1% tax on this merchandise, however, I also feel that there should be a level "playing field" for all retailers and that BBB is not entitled to this kind of a competitive edge.

None of my family members have any kind of a financial interest in any of these concerns so that is not a reason for my writing this letter.

I would appreciate very much hearing from you after you have examined this situation.

For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.310, which is the Department's regulation for "Food, Drugs, Medicines and Medical Appliances." Medical appliances are not taxed at the 6.25% State rate. These items are taxed at a lower State rate of 1%.

Medical appliances are defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See Section 130.310(c). Medical devices that are used for diagnostic or treatment purposes do not qualify for the lower tax rate. Diapers for incontinent adults, as well as undergarments and incontinence pads for incontinent adults qualify for the low rate of tax. See Section 130.310(c)(3).

A copy of this letter will be forwarded to the Department's Audit Bureau for their information. In the meantime, please feel free to take a copy of this letter to the stores that are selling you the incontinence products at the high rate to insure that you are charged the correct rate in the future.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.